

THE
Remarkable TRIAL
OF
William Andrew Horne, Esq;
(For the **Murder** of a *Male Child*
Thirty-Five Years ago) K
AT THE
ASSIZE
HELD FOR
The County of *Nottingham*
ON
Saturday the 10th of AUGUST, 1759.
BEFORE
Sir THOMAS PARKER, Knt.
Lord Chief Baron of his MAJESTY's Court of *Exchequer.*



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T H E
REMARKABLE
T R I A L
O F

William Andrew Horne,

Of Butterly, in the County of Derby, Esq;

Saturday, AUGUST 10, 1759.

HE Court being met at six o'Clock in the Morning, the Bill of Indictment having been found the Evening before by the Grand J U R Y for the County of Nottingham, the Prisoner WILLIAM ANDREW HORNE, Esq; was set to the Bar, and the Clerk read

The Indictment.

Notting- **T**HE JURORS for our Lord the KING hamshire, upon their Oath present that William Andrew To wit. Horne, late of Butterly, in the Parish of Pen- tridge, in the County of Derby, Esq; not having the Fear of GOD before his Eyes, but being moved

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The remarkable Trial of

and seduced by the Instigation of the Devil, on the eighteenth Day of February, in the eleventh Year of the Reign of his late Majesty GEORGE the First, King of Great Britain and so forth, with Force and Arms at the Parish of Annesly in the County of Nottingham, in and upon a certain Male Infant Child, then lately before born alive, of the Age of three Days, in the Peace of God and our said Lord the King, then and there being feloniously, wilfully, and of his Malice aforethought, did make an Assault; and that the said William Andrew Horne the same Male Infant Child at the Parish of Annesly aforesaid, in the County of Nottingham aforesaid, into and in a certain Linen Bag of the Value of Two-Pence, then and there feloniously, wilfully, and of his Malice aforethought, did put, place, and confine. And the same Male Infant Child, so put, placed, and confined, in the said Bag, He the said William Andrew Horne then and there, feloniously, wilfully, and of his Malice aforethought, into a certain Field and open Ground there, at the Parish of Annesly aforesaid, in the County of Nottingham aforesaid, feloniously, wilfully, and of his Malice aforethought, did convey, and carry; and the same Male Infant Child, so confined in the said Bag, did then and there feloniously, wilfully, and of his Malice aforethought, leave, expose, and desert; by Reason and Means of which confining, conveying, and carrying, leaving, exposing, and deserting the said Male Infant Child, by the said William Andrew Horne, in the Manner aforesaid, the said Male Infant Child at the Parish of Annesly aforesaid, in the County of Nottingham aforesaid, died. And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said William Andrew Horne him the said Male Infant Child in Manner and Form aforesaid, feloniously, wilfully, and of his Malice aforethought, did kill and murder, against the Peace of our said late Lord the King his Crown and Dignity.

CLERK.—What sayest thou William Andrew Horne, art thou Guilty of this Indictment or not Guilty?

PRISONER.

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PRISONER.—Not Guilty.

CLERK.—Culprit, How wilt thou be tried?

PRISONER.—By God and my Country.

CLERK.—God send thee a good Deliverance.

Names of the J U R Y.

Henson Kirkby of Worksop, Gent. Foreman.

☞ As a compleat and genuine List of the JURY could not be obtained, it is hoped the Reader will excuse its not being incerted.

CRYER.—O yez. If any one can inform my Lord the King's Justice, the King's Serjeant, the King's Attorney, or this Inquest now to be taken, of any Treason, Murders, Felonies, &c. or other Misdemeanours committed by the Prisoner at the Bar, let them come forth and they shall be heard for he now stands upon his Deliverance.

CLERK.—Mr. Horne hold up your Hand. Gentlemen of the Jury, look upon the Prisoner you that are sworn and hearken to his Charge.

(The Indictment read) Upon this Indictment he has been arraigned, and upon his Arraignment pleaded not Guilty, and for his Trial put himself upon God and his Country, which Country you are, your Charge therefore is to enquire whether he is guilty or not guilty, and hear your Evidence.

COUNCIL.—Call Charles Horne.

CHARLES HORNE.—I am a younger Brother of the Prisoner's. We lived together at my Father's House at Butterly in the County of Derby. In the Middle of February in the Year 1724, being then in one of the Rooms, my Brother William came to me, at ten o'Clock at Night, and said, I must take a Ride with him that Night. He took a Male Child

Child out of the Kitchen Chamber, which was only three Days old. We went to the Stable in the Fold Yard and I mounted a black Horse called Robin, the Prisoner rode a little bay Mare. The Child was put into a long Linen Bag, like unto a C o c k B a g. I held the Bag, and my Brother put the Child in, and I tied up the Bag. We went freight to Annefly which is five computed Miles from Butterly and is in this County. It was a cold frosty Night and there was some Snow upon the Ground. My Brother and I carried the Child by Turns. When we came near Annefly my Brother the Prisoner alighted from his Mare and asked me if the Child was alive, on which I put my Face to the Child's Face, and said it was alive; It never cried when it was put into the Bag nor any Time as it was carried, he then took it from me in the Bag and left me, after bidding me stay in the Lane till he returned. In about a Quarter of an Hour he came back. On my asking him what he had done with the Child, he said he had laid it by a Haystack, and covered it with Hay. My Father was then living, but did not know of it till some Time after, but when he did, he charged me not to speak of it. In about three or four Days after we returned from Annefly, Benjamin Jackson called to me in the Yard, and told me there was strange News at Annefly, that a Child was found there under a Haystack and thrown over a Hedge with a Fork. That a Man went to fodder his Cattle and had ran his Fork into the Bag. I should have made a public Discovery of this much sooner if my Father had not enjoined Secrefy, but I told it some Time before my Father's Death to one Kelfall; I also went on Purpose to Mr. Cook of Derby and told him this Affair, and Mr. Cook advised me to go to Mr. Justice Gisborne, I did, but Mr. Gisborne said I had better be quiet as it was of so long standing and might hang half the Family. Mr. Cook also said a Discovery should have been made in my Father's Life Time. About the same Time I told it to one Septimus Riley a Tenant of my Brother's, and told it Mr. John Cooper of Ripley as I came back from Derby. About four Years ago, I being then very ill, sent for Mr. John White of Ripley and told him of it and desired he would advise me what to do. Mr. White said it was a nice Affair and he could not tell how to advise. I had for a long Time been very uneasy in my Mind, but upon making these Discoveries,

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coveries, I found myself much better both in Body and Mind. About last Christmas Mr. Hallows granted a Warrant to take me up in Order to be examined about the Death of the Child. My Brother hearing of this, sent one Walker to know who granted the Warrant, and to tell me they could not force me to swear against the Prisoner if I had no Inclination so to do.

Cross Examination.

Question. Did not you send to your Brother to let him know, that if he would provide for you and your Family, you would not prosecute him?

Answer. No, I never did.

Q. Did not you send to desire he would lend you two Guineas on your own Note, and you would not say any Thing of the Matter?

A. No, I did send to borrow forty Shillings but he would not lend it me.

Q. Are you certain it was in the Year 1724, was it not in the Year 1726, that the Child was carried away from your Father's?

A. I am very certain it was about the Middle of Febrary 1724, and not in 1726.

Q. Was the Child alive when you took it from Home?

A. It was.

Q. Are you positive the Child was alive, when your Brother took it from your Hands near Annesly?

A. I am very certain it was.

Q. How do you know it was, did it cry?

A. No, It never cried of all the Way, but I put my Face to its Face and felt it breathe, and it was very warm.

Q. Have not you often said that if the Prisoner would have provided for you, you would have not prosecuted him?

A. I may have said that if my Brother had used me as he shoul have done, I would not have declared so much as I have.

Q. Don't you expect to succeed to your Brother's Es^tate if he is convicted?

A. I cannot tell that.

Q. Have not you said that if your Brother William was hanged,

hanged, then the elder Brother would have the Estate, and you should have it after him?

A. No, I don't remember I ever said any such Thing.

Q. Has not one Roe and some others, put you upon this Prosecution?

A. No Body has obliged or persuaded me to prosecute my Brother against my own Inclinations.

Q. Has not Mr. Roe given you Money to carry on this Prosecution?

A. No, He lent me Five Pounds and took my Note for it.

Q. Are you now, or have you for several Years past been worth Five Pounds?

A. No, I have not been worth Five Pounds these several Years. I have received Two Shillings and Six-Pence a Week of the Parish of Pentridge, for these four Years last past.

Q. Have not you declared that Roe has given you a Bond to prosecute your Brother?

A. No, I never said any such Thing.

Q. If the Account you have given about the Loss of the Child be true, why did not you make it publick as soon as it was done?

A. I told it to my Father not long after it was done, and he insisted that I should never speak of it; says he, Charles if thou shouldest declare this, when thou art dead, the People will walk over thy Grave and say, here lies the Man that hanged his Brother.

Q. Was this Affair about the Child generally known in the Family?

A. Some of the Family did know of it.

Q. How came you to tell it to Topham and Kelsall?

A. I quarrelled with my Brother when I lived at Pentridge. Kelsall and Topham taxed my Brother with it.

Q. What was the Occasion of the Quarrel?

A. My little Farm joined to my Father's; my Father made a Gate for me to go through to his House, my Brother came drunk from Slack's and broke the Gate, and ordered the Gap to be hedged up, and I was very angry.

Q. Where do you live?

A. I live by the Gate going down to my Brother's House.

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House. I used frequently to open the Gate for him, and pull off my Hat to him, and yet he would not speak to me.

Q. How long have you been acquainted with Mr. Roe, is not he a drunken Fellow?

A. My Acquaintance with him is not of a long Standing.—I do not know that he is more inclined to drink than his Neighbours.

Q. Have not you been a Prisoner in Derby Goal?

A. Yes, I have, a Woman swore I had murdered a Child, and I was confined twenty Weeks, but was acquitted.

Q. Was not you taken before Justice Hallows by a Warrant last Christmas?

A. No, I had Bondsmen ready, but they did not take me.—I did not see Justice Hallows.

THOMAS LIMB.—I live at Annesly in this County. I very well remember that John Wooton came to my House one Morning about the Middle of February 1724, and told me he had found a Bag with something in it, as he was feeding his Cattle at John Gelstrope's Haystack near my House, and he said he had put it over into my Croft. Upon this I went with him, to see what it was, and we opened the Bag and found a dead male Child in it. We took the Child to my House, and my Wife took the Child out of the Bag to see if there was any Life in it, but the poor Child was quite cold and dead. I remember I was examined by the Coroner, but cannot at this Distance of Time recollect what Verdict the Jury gave in. I am certain it was a Male and fine Child, and my Wife said it was four Days old,

Cross Examination.

Q. Recollect yourself, was not the Child you speak of found in the Year 1726?

A. No, It was in 1724.

Q. Might not the Child be killed by the Fall in throwing it over the Hedge?

A. I am pretty sure it was not, because it was as cold as a Stone.

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Q. Is your Wife living to give an Account of this Affair?

A. No, She has been dead some Years.

JOHN WEIGHTMAN.—I have lived at Annesly above forty Years. About the Middle of February in the Year 1724, a Child was found in a Linen Bag laid under a Haystack, belonging to John Gelstrope of Annesly, John Wooton threw it over the Hedge with his Fork, but the Child was quite dead, and was a fine male Child.

Cross Examination.

Q. Can you take upon you to swear the Child was found in February, and in the Year 1724, consider, 'tis a many Years since, and in a Case like this where the Prisoner's Life is affected, you should be extremely careful what you say?

A. I am certain as to the Time, there was a Rime, and a little Snow upon the Ground, and it was very cold.

Q. Might not the Child have been killed by the Fall, or might it not have received its Death from the Fork.

A. I apprehend not, for there was no Marks of Violence upon it, nor any Bruise. I examined it all over, it was a fine Boy, and I am of Opinion it was killed by being left all Night in the Cold, and so was starved to Death.

MARY HALL.—I have lived at Annesly a great many Years. I was at Thomas Limb's House when the Child was found in a Bag under the Haystack on Shrove Tuesday, in the Year 1724. Thomas Limb's Wife took the Babe out of the Bag, and she held it to the Fire and rubbed and chafed it all over with her Hands to bring it to Life again, though to no Purpose, for it was quite cold, and to all Appearance was killed by being exposed to the Weather. It was a fine Male Child, and seemed to be about two or three Days old.

Cross Examination.

Q. Have you not Reason to think the Child was killed by throwing it over the Hedge, or by running the Fork into the Bag?

A. He

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A. He might fling it over the Hedge and do it Damage, but there was no Mark of Violence upon it.

JOHN TOPHAM.—About thirteen Years ago I and one Edmund Kelsall went to Butterly, Charles Horne Brother to the Prisoner then lived there; we wanted to speak to Charles, and found him in the Stable, he looked very sorrowful, I asked him what was the Matter! he said, he and his Brother had had some Words; says I, he does not use you well; he replied, he knew that which would hang his Brother, and yet he uses me thus; I then asked him what it was; and he told me that his Brother the Prisoner had above twenty Years ago murdered a Child, and left it at Annesly. Kelsall was present during this Conversation, and he and I went the next Morning to Annesly to enquire of the Neighbourhood there if any such Child had ever been found, and we were informed by several People, particularly a Landlady, that about twenty Years before such a Child was found in a Close at Annesly. Three or four Years after this, I told the Prisoner of it upon a Quarrel, he made no Reply but gave me ill Language, and never invited me to his House after.

Mr. COKE.—I am a Barrister at Law and live at Derby. About eight, ten, or it may be eleven Years ago, a Person whose Name was Horne came to me about some Parish Business. After the Business was over, he desired to advise with me upon another Affair. He then told me that his Brother had got his Sister with Child, and had murdered the Child. I asked him how he came to conceal it; I do not recollect what Answer he gave.—I then advised him to go to a Magistrate and make a full Discovery of the Matter.

JOHN COOPER.—As I was going to Derby about twelve or thirteen Years ago, I fell into Company with Charles Horne, he said he was then going to Derby to give Information against his Brother for murdering a Child above twenty Years before, and leaving it at Annesly. I have several Times since heard Charles Horne give an Account of the same.

JOHN WOOD.—Six or Seven Years since, Charles Horne told me his Brother the Prisoner had murdered a Child, and that it was a great Burthen upon his Conscience. I advised him by all Means to disclose the Affair, and unburthen his Conscience. He said it was then more than twenty-five Years since the Fact was done, and that his Brother would never do any Thing for him.

JOHN WHITE.—About five Years since Charles Horne being very ill of a Flux, he sent for me, I found him in a very poor Condition, lying upon the Floor having only a loose Cloth under him.—He said, Mr. White I am a dying Man, and cannot go out of the World without disclosing my Mind to you. He then told me that he and his Brother the Prisoner had carried a Babe to Annesly, and there left it to perish with Hunger and Cold.—I told him I was sorry to hear such an Account, that it was very hard he should lie in that miserable Condition, and advised him to put his Trust in God, and he would reward him hereafter. I gave him Six-Pence and left him.

Cross Examination.

Q. Did not he say his Poverty occasioned his making this Declaration?

A. He said his Brother the Prisoner was very cruel to him, that he had denied him a little Wine in his Sickness, and a Pair of Breeches.

Q. If this Story he told you had been true, why did not he immediately make a full Discovery before some proper Person?

A. In three or four Days after I had left him, he recovered surprisingly. I saw him and asked what had occasioned so speedy a Recovery; he said after he had disclosed his Mind to me, he found his Mind much easier, and attributed his Recovery to that. He then advised with me what he should do further, I told him it was a nice Point and I could not tell how to advise him.

JOHN WEIGHTMAN.—I am Constable of Pentridge. A Warrant was granted by 'Squire Hallows to take up Charles Horne to oblige him to make a full Discovery of the

the Murder of the Child. This was about six or seven Months since.

Cross Examination.

Q. Who gave you Directions to serve the Warrant?

A. Mr. Samuel Roe.

Q. So then you acted by Mr. Roe's Order, and not by the Order of the Justice?

A. Mr. Roe gave me the Warrant, And by his Directions I took up Charles Horne to be examined.

Q. Why did not you take Charles Horne before the Justice?

A. Mr. Roe ordered me to set him at Liberty.

JOHN WALKER.—Some Time last Christmas Mr. William Horne the Prisoner at the Bar, told me he had been informed that a Warrant had been made out to take up his Brother Charles in Order to be examined about the Murder of a Child. By his Desire I went to Charles to know where the Warrant came from, and I offer'd Charles Money to make the two Brothers Friends. He bid me tell Charles they could not make him swear what he knew, against his Inclination. The Prisoner said to me, *What would they tear my Sisters out of their Graves for a Thing done thirty Years ago?* Tell Charles he can't hang me without hanging himself, and that if he behaves properly, I will be a Friend to him. The Prisoner never denied the Fact to me, or said he was innocent of the Murder.

HENRY COLTMAN.—Sometime in Christmes last the Prisoner Mr. Horne sent me to his Brother Charles Horne, to hear what was said on Mr. Hallows's having granted a Warrant. Charles said, that when they took the Child to Annesly, he rode on Robin and his Brother the Squire on a little bay Mare. When I told the Prisoner this, he cry'd in a Pet, *a damn'd Rogue, what Occasion had he to tell that, when Roe fetch'd the Warrant.—That it was Malice, it was done between thirty and forty Years since, he will hang himself as well as me.*

SAMUEL

SAMUEL SMITH.—About last Christmas the Prisoner sent for me, to know if I could tell what was in the Warrant which was granted to take up his Brother Charles. He said it was Malice in Roe and Charles to extort Money from him.

JOHN TURNER.—I am Constable of Annesly.—A Warrant having been granted to take the Prisoner, I was ordered with proper Assistants to execute it.—This was done when the Assize were held last at Derby.—About eight o'Clock at Night we went to the Prisoner's House at Butterly I knocked at the Door, but was refused Admittance. I then left Joseph Smith, Samuel Roe, and Samuel White to guard the House.—I went again early the next Morning, knocked at the Door, and was told by one of the Maids Mr. Horne was gone out.—We insisted he was in the House, and threatened to break the Door, upon this, they let us in.—We search'd all over the House but could not find him.—Samuel Roe insisted upon our making a second Search.—In one of the Rooms there was a large Box. We determined to know what was in it. Mrs. Horne the Prisoner's Wife said it contained nothing but her best Linen; Roe would look into it, and offered to break the Lid; then Mrs. Horne opened the Chest, and Mr. Horne the Prisoner started up in a Fright without his Hat and Wig.

SAMUEL WHITE.—I was an Assistant to the Constable in taking Mr. Horne. We were at first denied Admittance, but afterwards they let us into the House, which we searched very narrowly, but could not find him; at last the Constable and Mr. Roe found him locked up in a great old Chest, but I was not present when he was found in the Chest.

SAMUEL ROE.—I was an Assistant to the Constable, when we went to take Mr. Horne, which was in the Evening about Eight o'Clock.—We were denied Admittance into the House that Night, but Mrs. Horne promised us that Mr. Horne the Prisoner should be forth-coming in the Morning.—We did not care to trust to that, but watched

all

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all Night, and in the Morning after threatening to break the Door with an Iron Crow they let us in.—We searched every Room and Passage in the House very carefully to no purpose, at last I fixed my Eye upon a large old Chest in one of the Rooms, in which Mrs. Horne said there was nothing but Table Linen and Sheets, but I insisted upon looking into it, and was resolved it should be broke open; she then unlocked the Chest, and Mr. Horne came out of the Box, shaked me by the Hand, and said, *It was a sad Thing to hang him for his Brother Charles was as bad as himself, and he can't hang me without hanging himself.*—Some little Time after this, the Prisoner being in the Parlour, he turned himself towards the Wall, and said, *Damn the Cock-BAG.*

Cross Examination.

Q. Pray Mr. Roe have not you subscribed Money towards the Expence of this Prosecution against the Prisoner?

A. No, I never subscribed any Money upon this Occasion.

Q. But if you have not subscribed, you have laid Waggers upon the Issue of this Trial.—Did not you lay Two Guineas that Mr. Horne would be hanged?

A. No, I may have laid a Mug of Ale or so that he would, but no Money that I can remember.

Q. Has not the Prisoner and you been at Difference. Did not he prosecute you in the Ecclesiastical Court at Litchfield?

A. I do not deny that there has been a Quarrel between us, and that he prosecuted me in the Ecclesiastical Court, but it was his Fault, not mine.



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*The remarkable Trial of
The Prisoner's D E F E N C E.*

My Lord, I am accused of a Crime I know nothing of. I am prosecuted maliciously by Persons who want my Life and Estate. The rest I leave to my Council and the Witnesses.

WILLIAM DAYKYN.—I know the Prisoner, and I know his Brother Charles the Prosecutor. Being at Ripley some Time ago with Charles Horne, he told me if the Prisoner was but hanged out of the Way he should have the Estate, for his elder Brother was sixty-three Years of Age and his other Brother very sickly.—Charles said that he wished every Tongue might rot out that spoke a Word in Favour of the Prisoner, and that he prosecuted him out of Spite and Malice.

ROBERT MOORE.—About two Months ago, talking with Charles Horne about the Prisoner, he said, if the Prisoner would not give him something out of the Estate and let it go in the right Line he would hang him right or wrong. He also told me if his Brother had shewed him Kindness he would never have sworn against him on any Account.—He said he should get nothing by his Life but should by his Death, for Roe had given him a Bond for a Sum of Money, if he hanged him, which he should be paid besides the Money he should get out of the Treasury.

SARAH EYRE.—I know both the Prisoner and his Brother Charles; Charles told me that the Prisoner had strove all he could to take his Bread away, and that he would say and swear any Thing to hang him. I said, God will never forgive you; he said, Thou Fool the Devil has as much Power over me as he can have. He said the Estate would come to his Brothers, and he should have it after, when he should have it in his Power to be kind to his Women. He threatned to mob me if I came to the Assize to give Evidence in Favour of his Brother.

ANN STAFFORD.—I know the Prisoner and lived under him, Charles Horne was at my House not a great while since,

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since, where he said, I wish some body would lie in the gods and shoot my brother, meaning the prisoner; that he would do it himself if it was not for the Law, for after his Death he should come in for the Estate. Some Time after, when Mr. Horne was sent to Goal, Charles talked with me again, and gave me a Shilling, saying he hoped I should not appear against him.

VINCENT CRESWELL.—Four Months ago, Charles Horne said to me if his Brother was but hanged, the Estate would go to the King, and then he should have it to beg. He often complained of Poverty, but said he should at last have an Estate for begging:

JOHN BUXTON.—The 24th of March last I was at Charles Horne's House; he sells Ale at a little Cottage in Pentridge Parish; he there told me he should not have prosecuted his Brother if he had not been put upon it. I asked him how long it was since the Child was found at Annesly, he said he could not tell to 10 Years. He declared to me another Time that he did not want to hang the Prisoner, tho' he had cheated him of his Fortune, if he would but give him the Money he had had of the Parish and put him in a better Way of Living, or if he would have lent him a Couple of Guineas when he sent to borrow them, he would not have been in Goal then.

WILLIAM RIMINGTON.—I heard Charles Horne say, a Year ago, in a Publick House at Pentridge, that it was a hard Thing for one Brother to be a Gentleman and another a Beggar, and that if the 'Squire his Brother would not allow him a Maintenance, he would swear his Life away.

ANN HORNE.—I am a distant Relation of the Prisoner's. I lived in London, but about six or eight Months since Mr. Horne sent me an Invitation to come and live with his Family at Butterly Hall, as a Servant or Companion to Mrs. Horne. I have known Charles Horne about 6 Months. As I was going to Ripley about 2 Months since, at the Bottom of my Master's Close I met Charles Horne; he asked why I
would

would not speak to him ; I told him I had no Objections further than the ill Usage he had given my Master ; he replied, had my Brother William given me Money I should not have swore against him ; he said his Poverty obliged him to swear. Some Time after this, he called me to his House, and asked me if I had a Mind to make it up, bid me inform my Master that if he would give him a Sum of Money he would go off. The Man that fetched me over to Charles Horne's House was Henry Coltman ; they were very civil to me, Coltman laid his Hand upon my Knee, and said, come be a good Girl, let us make up the Affair, and we will get thee a Husband in this Country. I never sent any Account of this to my Master, for I was sure he would give no Money, he did not fear what Charles would do or say, for the Night before the Warrant was executed, one of the Smiths came and told my Master, there certainly was a Warrant out against him, yet he never in the least offered to get away. My Master put on his great Coat when they beset the House, and would have gone out to speak to them in the Yard, but my Mistress laid her Arms about my Master's Neck and would not let him go.—After this Charles Horne and others threatned that if I came to the Assize to swear for my Master, I should be cuck'd, duck'd, and otherwise abused, so that I was in Fear of my Life almost.

HENRY COLTMAN.—I did not fetch *Ann Horne* to *Charles Horne's*.—I recollect I did go with her to the Alehouse which Charles kept, but I was not desired to fetch her in, I laid indeed my Hand on her Knee, and said, come let us make all Things agreeable, and I will get you a Husband, but there was no such Discourse she speaks of that I heard, about Charles's proposing the taking Money of the Prisoner to go off.

ANN HORNE.—I am very positive that at the Time I was at Charles Horne's House, he did say if my Master would give him a Sum of Money he would go off, or he would not prosecute him.

THOMAS GELLET.—I was at Charles Horne's House last Sabbath Day was three Weeks; he then said he would
not

not have swore against his Brother nor would he now hang him if he would but do something for him, and put him in a better Way of Living.

Mr. SAMUEL FLETCHER.—I being at Derby the last Assize, heard that a Warrant was certainly granted in Nottinghamshire to take up the Prisoner; being acquainted with him, I wrote him a letter to give him early Notice of what was doing and sent it by his Tenant Riley, who I supposed delivered it in good Time for Mr. Horne to have got away, if he had known himself guilty. As to the Prosecutor Charles Horne, I can say no Good at all of him.

SEPTIMUS RILEY.—Mr. Fletcher gave me a Letter to carry to the Prisoner who was then at his House at Butterly, I delivered it into his own Hands but he did not seem to mind it.

Three more Witnesses were examined on the Prisoner's Defence, who only deposed to Charles Horne's having at different Times threatened the Prisoner's Life, and declaring that he wanted the Estate, but none had any Thing to say in Relation to the Fact.

The Judge sum'd up the whole Evidence for and against the Prisoner with the greatest Impartiality, when the Jury after having been out of Court half an Hour, brought the Prisoner in Guilty, *Death*.

Agreeable to the Sentence, Mr. *Horne* was to have been executed and hung in Chains on Monday the 12th of *August* last; but several Gentlemen, considering that the Time allowed by the Rigour of the Law was very short for the unhappy Prisoner to make a due Preparation for Death, were kind enough to wait on the Judge to desire a little more Time, and at their Request, the Prisoner was indulged a Month longer. Mr. *Horne's* Friends made Use of all their Interest, in the mean Time, to obtain a Pardon, but that could not be effected till the Judge had made his Report to his Majesty; however, tho' they did not succeed in their Hopes of a Pardon, they obtained a 2d Respite for the Pri-

The remarkable Trial of

somer to continue under Sentence till further Orders: In the Interim great Pains have been taken to save his Life; but what the Event will be, is very uncertain; 'tis indeed the general Opinion, he will end his Days, as a Prisoner, in *Nottingham G O A L.*

COPY of Mr. HORNE's COMMITMENT.

Nottinghamshire, To the Keeper of his Majesty's Goal at Nottingham, in the County of Nottinghamshire aforesaid, and to his Deputy or Deputies there, and to every of them, and to the Constable of Annelly.

W H E R E A S *WILLIAM ANDREW HORNE* of *Butterly Park* of the Parish of *Pentridge* in the County of *Derbyshire*, was this Day brought before me *Henry Sherbrooke Esq*; one of his Majesty's Justices of Peace for the County of *Nottingham*, being accused of murdering a Child sometime in *February 1726*, by carrying it from his Father's House at *Butterly* aforesaid, in the Parish of *Pentridge* in the County of *Derbyshire* in the Night Time, leaving it under a Haystack, at a Place called *Annelly* in the County of *Nottingham*, where it was found Dead the next Morning. And there is the greatest Reason to believe, that the said *William Andrew Horne* was the Murderer of the said Child, These are therefore in his Majesty's Name to command you, that immediately you receive the Body of the said *Wil. And. Horne* and him safely keep in your said Goal, untill he be thence delivered by a due Course of Law. Given under my Hand and Seal this 22d Day of *March, 1759.*

Mr. Horne's Confinement not agreeing with him, at the next Quarter Sessions held for the County of Nottingham, after his Commitment, he by his Council moved to be admitted to Bail, which the Court refused to grant; and in Easter Term following brought his Habeas Corpus and removed himself into the Court of King's Bench; where he again moved to be admitted to Bail, but being opposed by Council upon the following Affidavits, he was refused Bail, and remanded back to Nottingham Goal,

In the KING's Bench.

The KING against William Andrew Horne.

C H A R L E S H O R N E of *Butterly Park* in the Parish of *Pentridge* in the County of *Derby Gent.*

William Andrew Horne, Esq; 21

(the Prosecutor in this Cause) maketh Oath and saith, that in or about the Month of *February* thirty-three Years since, to the best of this Deponent's Remembrance and Belief, (but the Time being so long since past can't speak to the exact Month and Year) this Deponent being at his Father's House at *Butterly* in the Parish of *Pentridge* aforesaid, late at Night, the Defendant then told this Deponent and insisted that he should go with him the Defendant that Night. To which this Deponent agreed, and this Deponent saith, that the Defendant took a young living Male Child, about three Days old, in a Bag from *Butterly* aforesaid, and this Deponent and the said Defendant rode together the same Night, till they came near *Annesly* in the County of *Nottingham*, which is about five computed Miles from *Butterly* aforesaid carrying the said Child by Turns, saith that when this Deponent and Defendant came near *Annesly* the Defendant took the Child from this Deponent and asked him if the said Child was alive, to which this Deponent answered him, said it was, whereupon the said Defendant alighted from his Horse, and took the said Child, and ordered this Deponent to stay in the Lane with his Horse till his Return; which was in about a Quarter of an Hour's Time, but without the Child. Saith that thereupon he this Deponent asked Defendant what he had done with the Child, the said Defendant then told this Deponent that he had left it at or near a Haystack on the Side of *Annesly*; and then this Deponent and Defendant returned to *Butterly* aforesaid the same Night without the said Child. Saith that some few Days afterwards this Deponent heard that a male Child was found Dead near *Annesly* aforesaid by a Haystack, which shock'd this Deponent very much.—**THOMAS LIMB** of *Annesly* in the County of *Nottingham* Farmer, maketh Oath and saith, that he was born at *Annesly* aforesaid and lived there the greatest Part of his Time, that in the Winter about thirty-three Years since, *John Wooton* of *Annesly* aforesaid since deceased called at this Deponent's House in *Annesly* aforesaid, and told this Deponent that he had found a little Bag with something in it, as he was foddering Cattle at *John Gelstrope's* Haystack near this Deponent's House at *Annesly* aforesaid, which he put over into this Deponent's Croft near the said House; and that said *Wooton* desired this Deponent to go

with

with him, which this Deponent did, and on opening the Bag they found a dead Male Child which appeared to be about three Days old, whereupon *Wooton* took the said Bag and Child to this Deponent's House, where this Deponent's Wife took the Child out of the Bag to see if there was any Hopes of Life, but the Child was dead. Saith that this Deponent was examined as a Witness on the Coroner's Inquest concerning the Death of the Child, but how the Death of the said Child was found by such Inquisition this Deponent knoweth not. Saith that he this Deponent hath lived at *Annesley* aforesaid ever since the above Time, and never knew or heard of any other Child being left and exposed as aforesaid.—JOHN TURNER Constable of the Parish of *Annesley* in the County of *Nottingham*, maketh Oath and saith, That on Thursday the 22d Day of *March* last, he received a Warrant under the Hand and Seal of *Henry Sherbrooke, Esq.*; one of his Majesty's Justices of the Peace of and for the County of *Nottingham*, directed to him for the apprehending and taking the said *William Andrew Horne*, on an Accusation of Felony and Murder, on the Prosecution of *Charles Horne*, which Warrant was afterwards and before the executing thereof, indorsed by Sir *John Every* of *Eggington*, in the County of *Derby* Bart. (one of his Majesty's Justices of the Peace of and for the County of *Derby*) saith that on the same Day, this Deponent with the Officer of *Ripley* in the Parish of *Pentridge*, commanded *Joseph Smith, Samuel Smith*, and *Joseph Saint*, and others, to aid and assist them in taking the said Defendant who went to the said Defendant's House at *Butterly* within the Liberty of *Ripley* aforesaid, about ten of the Clock that Night, and watched the same all Night, to prevent Defendant from making his Escape. And this Deponent saith, that on the 23d of the same *March* early in the Morning, this Deponent knocked at Defendant's House Door, and asked for Defendant who was then told by some Person within, that the said Defendant was gone from Home. This Deponent then told the said Person within the said House, that if the Door of the said House was not opened, he this Deponent would break it open. Saith that he this Deponent procured Instruments to force the outer Door of the said House open and made an Attempt to do it; whereupon the said outer Door was opened. Saith that

Defendant's

Defendant's Wife told this Deponent he might search the House, for the Defendant was gone out, and could not be found by this Deponent and his Assistants, who searched the House very strictly and could not find Defendant and were all coming away from thence; when one of the Assistants said, they had not searched the Firdale Box covered with Matting in the Chamber, upon which they went up Stairs to search the said Box, and desired Defendant's Wife and Maid Servant to open it. The Defendant's Wife then laid there was nothing in the Box but her best Linen, there was not Room for a Man to lie in it, and refused to open the Box. Saith that on such Refusal, this Deponent and Assistants were determined to force the Box open, and had almost torn off one of the Hinges for that Purpose. Saith that when Defendant's Wife found that this Deponent was determined to have the Box opened, she unlocked it, and on pulling up the Box Lid, Defendant rose up without Hat or Wig, seeming to be in a violent Sweat and greatly disorder-ed. Saith that he this Deponent brought him before the said *Henry Sherbrooke* the Justice of the Peace who granted the Warrant, who committed him to *Nottingham* Goal. Saith that at the last Quarter Sessions of the Peace held at *Notting-ham* in and for the said County of *Nottingham*, the said Defendant as this Deponent was informed and believes, moved by his Council to be admitted to Bail, which the Court there refused to grant.—*JOSEPH SMITH* of *Ripley* in the Parish of *Pentridge* in the County *Derby*, Frame-Work-Knitter, maketh Oath and saith, that on Thursday the 22d Day of March last, this Deponent, *Samuel Smith* this Deponent's Brother, and *Joseph Saint* of *Ripley* aforesaid, were com-manded to assist *Henry Barker* the Officer of *Ripley* aforesaid, in watching the House of the said Defendant at *Butterly* within the Liberty of *Ripley* aforesaid, to prevent him ma-king his Escape, there being a Warrant out against him, to take and arrest him, for a supposed Felony and Murder by him done and committed. And this Deponent saith that in Pursuance of such Command, he this Deponent and the said *Samuel Smith* and *Joseph Saint* watched the Defendant's Dwelling House, from about ten of the Clock at Night, till about five of the Clock in the Morning, when one *Sep-timus Riley* of *Butterly* aforesaid Farmer, a Tenant of Defend-

ant

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ant *Horne's*, came to this Deponent and asked him what Business he had there; whereupon this Deponent told the said *Septimus Riley* that there was a Warrant to take Mr. *Horne* (meaning the Defendant) and that this Deponent was charged by the Constable to be aiding therein. Saith that as soon as he had told the said *Septimus Riley* his Business, the said *Septimus Riley* went towards Mr. *Horne's* House, but soon returned, and then desired this Deponent to keep back a little, and let his Landlord go and his Landlord would be a Friend to him for the future. And this Deponent saith, that he absolutely refused to comply with the said *Septimus Riley's* Request, but on the contrary this Deponent endeavoured to apprehend Defendant, and for that Purpose staid near Defendant's House till about seven of the Clock in the Morning, when the Defendant's House was searched by the Constable and others, but they could not find Defendant. Saith that this Deponent told the Constable and his other Assistants, that he was sure Defendant had not escaped that Night, whereupon a Research was made in Defendant's House, where Defendant was taken in a Box, where he had concealed himself, as this Deponent was informed and believes. And this Deponent saith, that he afterwards assisted the said Constable in conveying Defendant before *Henry Sherbrooke, Esq*; one of his Majesty's Justices of the Peace for the County of *Nottingham*, who committed the said Defendant to *Nottingham GOAL*.

F I N I S.

